

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Latrice Frazier	Team: Squad #1	CCRB Case #: 201910843	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/08/2019 4:29 PM	Location of Incident: Front of 346 East 156th Street; PSA7 stationhouse	Precinct: 40	18 Mo. SOL 11/8/2020	EO SOL 6/25/2021	
Date/Time CV Reported Thu, 12/19/2019 10:24 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/19/2019 10:24 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Henry Rojas	02379	965849	PSA 7
2. POM Thomas Rossi	07591	961205	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ernesto Hernandez	01562	966617	040 PCT
2. POF Julia Goldberg	01532	956684	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Henry Rojas	Force: In front of 346 East 156th Street in the Bronx, Police Officer Henry Rojas used physical force against § 87(2)(b)	
B.POM Thomas Rossi	Abuse: Inside the PSA7 stationhouse, Police Officer Thomas Rossi threatened to arrest § 87(2)(b)	

Case Summary

On December 19, 2019, § 87(2)(b) called the CCRB and made the following complaint.

On May 8, 2019, at approximately 4:29 p.m., § 87(2)(b) was sitting on a park bench in the play area of the Melrose Houses in front of building 346 East 156th Street in the Bronx speaking with a friend about a § 87(2)(b). PO Henry Rojas, of PSA7, grabbed § 87(2)(b) with one hand on her right bicep and another near her elbow and yanked her off the bench she was sitting on (**Allegation A: Force**, § 87(2)(g)). § 87(2)(b) was arrested and brought to the PSA7 stationhouse. After being released from the holding cell area and processed for release, § 87(2)(b) asked for paperwork related to her arrest. PO Thomas Rossi, also of PSA7, told her to “get out, get out, you are not getting anything, get out before I make up a charge” (**Allegation B: Abuse of Authority**, § 87(2)(g)).

Body-worn camera (BWC) footage captured the arrest in the vicinity of 346 East 156th Street (**Board Reviews 01 through 04**). BWC did not capture the incident at PSA7 (**Board Review 05**). PSA7 stationhouse footage could not be obtained as the footage had expired by the time § 87(2)(b) filed a complaint with the CCRB.

§ 87(2)(b) was arrested § 87(2)(b) (**Board Review 13 & 14**). The arrest was voided at the PSA7 stationhouse.

Findings and Recommendations

Allegation (A) Force: In front of 346 East 156th Street in the Bronx, Police Officer Henry Rojas used physical force against § 87(2)(b)

§ 87(2)(b) stated that on May 8, 2019, she was in the play area of the Melrose Houses in front of 346 East 156th Street sitting on the back of a bench with her feet on the chair portion with her friend, § 87(2)(b) sitting in-between her legs as she played with his hair. They were discussing a wanted poster that communicated she was § 87(2)(b). When § 87(2)(b) looked up, she saw PO Rojas and PO Rossi standing in front of them. PO Rojas asked if she knew why they were there. § 87(2)(b) responded that she did and explained that she had not stolen the items but returned them to the owner who was a pastor in the neighborhood. The pastor already updated the 40th Precinct that she had not stolen his possessions. § 87(2)(b) asked if they could go to the pastor’s house so they could confirm that he had his belongings. § 87(2)(b) asked PO Rojas and PO Rossi if they reviewed the video that was mentioned on the wanted poster as the video showed that she had left a note for him to contact her to retrieve the possessions. PO Rojas then grabbed § 87(2)(b) with one hand on her right bicep and another near her elbow and yanked her off the bench she was sitting on, causing § 87(2)(b) to land on her feet. § 87(2)(b) did not resist the arrest. PO Rossi held her left arm as PO Rojas rear-cuffed her. § 87(2)(b) began to cry and stated that she did not want to go back to jail. § 87(2)(b) was placed in a police vehicle and transported to PSA7 (**Board Review 06**).

PO Rojas stated he and PO Rossi approached § 87(2)(b) and informed her of the reason they were stopping her. PO Rojas asked her if she was aware of the incident as it related to the wanted poster. § 87(2)(b) alluded to the incident stating she had resolved the issue and was no longer wanted. PO Rojas then informed her that they would have to take her to the precinct as she had a wanted flyer and active I-Card. A crowd gathered behind the officers, so they called for an additional unit. PO Rojas asked the male who was getting his hair braided to move to the side, to avoid any contact with him and then PO Rojas placed handcuffs on § 87(2)(b) without incident. PO Rojas stated that § 87(2)(b) did not resist arrest. PO Rojas stated that he did not yank § 87(2)(b) off the bench but guided her to stand up from the bench without any struggle (**Board Review 07**).

PO Rossi’s statement was consistent with PO Rojas’ except that he added that § 87(2)(b) was reluctant, but ultimately placed her foot down willingly and then PO Rojas grabbed

her hand and handcuffed her. PO Rossi also did not see PO Rojas yank her off the bench (**Board Review 08**).

PO Rossi's BWC showed that for approximately nine minutes PO Rossi and PO Rojas engaged § 87(2)(b) in conversation regarding the need to arrest and transport her to the stationhouse to speak to a detective regarding the grand larceny. § 87(2)(b) continued to explain her innocence. At 09:52 seconds into the video, PO Rossi asked § 87(2)(b) to stand up. § 87(2)(b) remained sitting on the bench and spoke on her mobile phone. PO Rojas repeated twice "please stand up", and on the second request placed his left hand on her wrist and right hand on her bicep. § 87(2)(b) stated that she would stand up and complied by standing on her two feet and stepping down from the bench. PO Rojas' hands remained on her wrist and bicep as she stood up and appeared to pull her forward, demonstrated by her left arm moving out in front of the rest of her body. § 87(2)(b) was then rear-cuffed. The BWC footage did not show PO Rojas yank § 87(2)(b)'s arm at any point (**Board Review 01**).

NYPD Patrol Guide Procedure 221-01 permits officers to use force when it is reasonable to ensure their safety or that of a third person, and to gain compliance and prevent escape from custody (**Board Review 09**).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Inside the PSA7 stationhouse, Police Officer Thomas Rossi threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that after approximately ten minutes of being held in a holding cell, she was released. § 87(2)(b) asked for paperwork related to her arrest just in case another officer approached her and tried to have her arrested. PO Rossi responded, "get out, get out, you are not getting anything, get out before I make up a charge." § 87(2)(b) then left the stationhouse because she did not want to argue with the officers (**Board Review 06**).

PO Rossi testified that while at the PSA7 stationhouse he called the 40th Precinct Detective Squad and was informed that the case was no longer active as of May 7, 2019 at approximately 11:00 p.m. PO Rossi then spoke with Sergeant Kontorovich who approved a voided arrest. PO Rossi immediately voided the arrest and released § 87(2)(b) from the holding cell. PO Rossi processed the release of § 87(2)(b) at the front desk and apologized to § 87(2)(b) stating that he did not know that the I-Card had been cancelled. PO Rossi stated that § 87(2)(b) was a little upset and a little confrontational, but it did not escalate past that. PO Rossi did not recall § 87(2)(b) asking for paperwork related to her arrest and he did not believe § 87(2)(b) received paperwork related to her voided arrest. PO Rossi stated he did not say, "get out, get out, you are not getting anything, get out before I make up a charge" to § 87(2)(b). PO Rossi did not witness any issues involving § 87(2)(b) being reluctant to leaving the stationhouse (**Board Review 08**).

PO Rojas did not recall hearing any officer have a conversation with § 87(2)(b) when she was being processed at the front desk for release. PO Rojas did not hear any officer make the alleged statement or recall if § 87(2)(b) requested paperwork related to her arrest (**Board Review 07**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- PO Henry Rojas has been a member-of-service for two years and has been subject in one CCRB complaint containing four allegations, which remains an open investigation.
- PO Thomas Rossi has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
- As of April 29, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**Board Review 12**).

Squad No.: 1

Investigator:	<u>Inv. Frazier</u>	<u></u>	<u>11/24/20</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>11.27.20</u>
	Signature	Print Title & Name	Date